

DEPARTMENT OF WORKFORCE DEVELOPMENT  
DIVISION OF ECONOMIC SUPPORT  
ADMINISTRATOR'S MEMO SERIES

ACTION: 99-16

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DISPOSAL DATE: Ongoing

RE: TIMEFRAME FOR REMEDYING  
NON-COOPERATION

To: Child Support Agency Directors

From: J. Jean Rogers /s/  
Administrator

## ISSUES

### Gaps in Existing Non-cooperation Policy

Non-cooperation is explained in Unit 13 of the *Wisconsin Child Support Procedures* manual and in Administrator's Memo 98-33 (November 13, 1998). However, existing non-cooperation policy does not address two issues:

- I. *What constitutes a reasonable timeframe for a child support agency (CSA) to allow a participant (who expresses a desire to resume cooperation) to remedy non-cooperation?*
- II. *Does remedying non-cooperation require demonstrable behavior, or merely an expression of intent to perform a required action in the future?*

### Implications of Policy Gaps for Inter-agency Cooperation and Participant Service Levels

As a result of gaps in current policy, disparities exist 1) in responses of economic support agencies (ESAs) to non-cooperation determinations, and 2) in the service levels provided by child support agencies to individuals who wish to resume cooperation.

Information from the field suggests that at least two problems have resulted from present policy gaps. First, some economic support agencies do not sanction individuals deemed non-cooperative because of the administrative difficulty of removing and then re-integrating the person into the Wisconsin Works (W-2) program. Second, ESAs are sometimes reluctant to apply sanctions because of their belief that CSAs do not lift non-cooperation determinations within sufficient time of being contacted by participants who wish to resume cooperation.

## BACKGROUND

### Aid Recipient Obligation to Cooperate

Food Stamp, Medical Assistance (MA), and W-2 participants have an obligation to cooperate with efforts of IV-D agencies to locate non-custodial parents, to establish paternity, and to obtain and enforce support orders. Section 16.3.1 of the *Wisconsin Works Manual* reads,

A W-2 applicant who refuses to cooperate with child support is not eligible to participate in a W-2 employment position, receive a Job Access Loan, or receive a child care subsidy unless it is determined by the W-2 agency that there is good cause for the parent to refuse cooperation.

The policy calls for W-2 benefits to be terminated “until cooperation with child support occurs” (Section 16.3.1 of the *Wisconsin Works Manual*).

#### Changes in Responsibilities of CSAs and ESAs

In the past, child support agencies made non-cooperation referrals to economic support agencies, who then decided whether the aid recipient was cooperating. Due to changes brought on by the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), child support agencies are now responsible for making a determination of non-cooperation, while economic support agencies are responsible for applying the non-cooperation sanction.

#### Implications of the Move from AFDC to TANF

With the transformation of public assistance from Aid to Families with Dependent Children (AFDC) to Temporary Assistance for Needy Families (TANF), non-cooperation sanctions have become inherently more punitive, affecting not just the benefit of the custodial parent, but that of the entire family. Non-cooperation sanctions have also become more problematic for economic support agencies to administer because under the W-2 program, individuals must be removed from their job and child care programs -- not just denied a cash benefit.

#### “Three Strikes” Policy

A participant's benefits will be cut for a minimum of six months if a W-2 agency determines that he or she has been "non-cooperative" on three occasions. Section 16.3.1 of the *Wisconsin Works Manual* reads:

An applicant/participant who fails three times without good cause to cooperate remains ineligible for W-2 services until the individual cooperates or for a period of six months, whichever is later.

### **ADDRESSING GAPS IN EXISTING NON-COOPERATION POLICY**

#### **I. Reasonable Timeframe for Remedying Non-cooperation**

*What constitutes a reasonable timeframe for a child support agency) to allow a participant (who expresses a desire to resume cooperation) to remedy non-cooperation?*

##### Policy:

A participant will be given the opportunity to demonstrate cooperation within 30 days of contacting the CSA to express his or her desire to resume cooperation.

##### Rationale for 30 Day Policy:

The 30 day maximum timeframe is a compromise generated from an effort to address two concerns: 1) the need to ensure timely restoration of benefits to individuals who wish to remedy their non-cooperative status, and 2) administrative challenges posed by the need to reschedule appointments, rework schedules, and resubmit paperwork for individuals who wish to restore their cooperative status. A 30 day timeframe provides the best means of allowing sanctioned individuals to restore their benefits in a

reasonable period, while not unduly penalizing the child support agency in its efforts to balance its workload, and thus, to optimize service to all of its participants.

## **II. Level of Behavior Necessary to Resume Cooperation**

*Does remedying non-cooperation require demonstrable behavior, or merely an expression of intent to perform a required action in the future?*

Administrator's Memo 99-33 defines cooperation (and by extension, the actions necessary to remedy a non-cooperation determination.) However, the adoption of a "reasonable timeframe" necessitates that policymakers go a step further and clarify whether demonstrable action or a mere expression of good faith is sufficient to remedy non-cooperation.

### **A. When the Activity Can Be Performed within 30 Days**

#### Policy:

A participant must demonstrate cooperation by performing the action required for the CSA to move forward with the case (for instance, attending a meeting, responding to a written request for information, etc). *This policy will apply in all cases except when a required court hearing cannot occur within 30 days.*

#### Rationale for "Demonstrable Behavior" Recommendation:

*With the exception of cases which require the rescheduling of a court hearing which cannot occur within 30 days, non-cooperation determinations will be lifted when a recipient of services demonstrates his or her commitment to resume cooperation by performing the action necessary to restore cooperative status. By requiring demonstrable behavior rather than a mere verbal commitment of intent to perform the necessary action, this policy ensures that cooperation actually occurs before the sanction is lifted.*

### **B. When a Rescheduled Court Hearing Cannot Occur within 30 Days**

In accordance with the "reasonable timeframe" policy, the CSA must take action to reschedule the hearing within 30 days of being notified by the participant of his or her desire to cooperate. This policy applies regardless of the action required to resume cooperation.

However, because court hearings may require scheduling months in advance, an alternative to the "demonstrable behavior" policy is necessary if the sanction is to be lifted within a reasonable period of time. (Absent an exception to the "demonstrable behavior" policy for rescheduled hearings, a W-2 family may be denied benefits for several months while awaiting the rescheduled court date).

#### Policy when Remedying Non-cooperation Requires Attendance of a Rescheduled Hearing

The non-cooperation determination will remain in effect until the participant contacts the CSA to ask to resume cooperation, or until the participant performs some other activity required by the CSA which demonstrates an intent to appear (for instance, attending a pre-hearing meeting, picking up hearing papers at the CSA, completing a financial information form, or signing an agreement to appear). If the participant is required to perform an activity indicating an intent to appear, the CSA will make it possible for the

participant to perform the activity within 30 days of the date the participant notifies the CSA of his or her desire to cooperate.

**ACTION SUMMARY STATEMENTS:**

- A participant who contacts a CSA to express his or her desire to resume cooperation must be given the opportunity to demonstrate cooperation within 30 days of the contact.
- Remedying non-cooperation requires demonstrable behavior (for instance, attending a meeting, responding to a written request for information, etc) rather than merely an expression of intent to perform a required action in the future.
- If a court hearing must be rescheduled, the CSA must take action to reschedule the hearing within 30 days of being notified by the participant of his or her desire to cooperate. The CSA will either 1) end the non-cooperation determination when the participant contacts the CSA to ask to resume cooperation, or 2) make it possible for the participant to perform some other required activity within 30 days of the contact.

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W-2 Agency Directors